

**From:** [Gray, David](#)  
**To:** [Edlund, Carl](#); [Tulis, Dana](#); [Stanton, Larry](#)  
**Cc:** [Hayes, Mark](#); [Petersen, Chris](#); [Smith, Monica](#); [Ruhl, Christopher](#); [Mason, Steve](#); [Phillips, Pam](#)  
**Subject:** RE: Questions on West and EPCRA  
**Date:** Friday, April 25, 2014 11:40:00 AM

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Thanks Carl.

FYSA

Here is the OEAAE statement that we used to respond to other inquiries after the CSB meeting. Statement: Chemical security is a shared responsibility. Since the tragedy in West, Texas, the Administration has engaged with a variety of industry, state and local government, and community stakeholders across the country to improve the safety and security of chemical facilities, and to reduce risks to owners and operators, workers, communities, emergency managers, and first responders.

As directed by the Executive Order on Improving Chemical Facility Safety and Security (EO 13650), Federal agencies have launched a working group to enhance operational coordination among agencies, and across all levels of state and local government, to strengthen information sharing efforts, expand outreach to the chemical industry, emergency managers, first responders, and other stakeholders, and modernize policies, regulations, and standards. These efforts are already making a difference on the ground and will ensure that further progress is made in the near term. For example, after the incident in West, Texas, EPA, OSHA, and the Bureau of Alcohol, Tobacco, Firearms and Explosives developed and released a new advisory to assist in the safe storage, handling, and management of ammonium nitrate. Agencies have also taken steps to improve Federal programs that address chemical facility safety and security, including sharing information between agencies to better identify potentially non-compliant chemical facilities and seeking public comment on a number of changes to existing requirements and standards.

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**From:** Edlund, Carl

**Sent:** Friday, April 25, 2014 11:31 AM

**To:** Tulis, Dana; Stanton, Larry

**Cc:** Hayes, Mark; Petersen, Chris; Smith, Monica; Ruhl, Christopher; Mason, Steve; Phillips, Pam; Gray, David

**Subject:** RE: Questions on West and EPCRA

Thanks Steve ...very quick response ..I appreciate being brought into the loop and am copying our External Affairs to make sure we all have consistent understandings. Being able to get quick responses from LEPC's will be another benefit from your outreach.

Dana/Larry- Here's our report back

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**From:** Mason, Steve

**Sent:** Friday, April 25, 2014 11:04 AM

**To:** Edlund, Carl; Phillips, Pam

**Cc:** Hayes, Mark; Petersen, Chris; Smith, Monica; Ruhl, Christopher

**Subject:** RE: Questions on West and EPCRA

Pam, Carl: From the email chain below, HQ is looking for answers to questions from the CSB meeting... I have written the answers below, but thought you would want to see them first... Please forward to Dana and Larry...

Please let me know if I need to do anything else...

Thanks

Steve

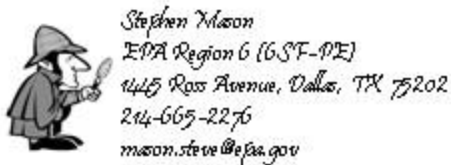
I spoke to Frank Patterson, the Emergency Manager for McLennan County, to clarify the questions... In terms of the exemption for AN (fertilizer), Frank had not talked to the facility about AN filing on the Tier II form, before the explosion. It does appear that the facility may have received information that the AN was exempt since it was a fertilizer held for sale to the consumer, maybe from the State, or a consultant. Whoever gave them that interpretation may not have understood that they were actually blending the AN with other materials, so that it would lose the exemption. West Fertilizer had been filing the Tier II form for several years, with anhydrous ammonia listed, as well as other smaller amounts of materials...

According to Frank, the facility put AN on the Tier II in 2012 voluntarily (in their mind), even though they thought it was exempt, due to the heightened interest in AN from DHS and the State Chemist. At the CSB hearing, Frank stated that he had not received the "RMP" from West Fertilizer, and that he only occasionally would receive an RMP from facilities in McLennan County.

Frank has received the Tier II forms from the facility on an annual basis, as had the West Fire Dept. Frank's office is the repository for the Tier II forms, and he has "hundreds of them" from facilities reporting in the county for years.

Many of the responders already knew of the presence of the AN at the facility, not only from the Tier II forms, but from their fire visits, and the fact that some of the responders had worked at the facility in the past, or had been customers of the facility.

Frank did state that no they had not done any specific planning as the LEPC or emergency management office for the facility.



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**From:** Tulis, Dana  
**Sent:** Friday, April 25, 2014 10:14 AM  
**To:** Mason, Steve  
**Subject:** FW: Questions on West and EPCRA  
[Steve? Thanks.](#)

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**From:** Smith, Monica  
**Sent:** Friday, April 25, 2014 11:14 AM  
**To:** Matthiessen, Craig; McQuiddy, David; Ruhl, Christopher  
**Cc:** Jennings, Kim; Stanton, Larry; Tulis, Dana; Irizarry, Gilberto  
**Subject:** Re: Questions on West and EPCRA

I am out of the office today; yet I sent your email to Steve Mason. I know he will be able to get the answer .

Sent from my BlackBerry 10 smartphone.

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**From:** Matthiessen, Craig  
**Sent:** Friday, April 25, 2014 8:38 AM  
**To:** Smith, Monica; McQuiddy, David; Ruhl, Christopher  
**Cc:** Jennings, Kim; Stanton, Larry; Tulis, Dana; Irizarry, Gilberto  
**Subject:** Questions on West and EPCRA

Hi, see below. Questions are getting raised as a result of the news blurb below which has errors. Can you quickly confirm that West provided the EPCRA Tier II info on AN to the locals? That was our

understanding. Was it news to you that the locals incorrectly assumed the AN reporting was exempt under EPCRA/EPA retail reporting exemption? That was news to us. Do you have any info to confirm whether there was any local response planning using the EPCRA information or RMP information (for the anhydrous ammonia)? Sorry for the urgent Friday request. Thanks – Craig Matthiessen

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**From:** Tulis, Dana  
**Sent:** Friday, April 25, 2014 8:56 AM  
**To:** Matthiessen, Craig; Jennings, Kim  
**Cc:** Stanton, Larry  
**Subject:** Fw: Monday  
Craig or Kim?

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**From:** Natarajan, Nitin  
**Sent:** Friday, April 25, 2014 8:44:47 AM  
**To:** Breor, Scott; [Long.Lisa@dol.gov](mailto:Long.Lisa@dol.gov)  
**Cc:** Graydon, Amy; Stanton, Larry; Tulis, Dana; Cohen, Nancy  
**Subject:** RE: Monday

Not sure. It's our understanding (and I'm asking my folks to keep my honest here) that they did report the AN under EPCRA to the appropriate folks....it's just a question of what was done with that information.

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Nitin Natarajan  
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**From:** Breor, Scott [<mailto:Scott.Breor@hq.dhs.gov>]  
**Sent:** Friday, April 25, 2014 8:41 AM  
**To:** Natarajan, Nitin; [Long.Lisa@dol.gov](mailto:Long.Lisa@dol.gov)  
**Cc:** Graydon, Amy  
**Subject:** RE: Monday

We are getting questions from our FO on the below – and they would like a response from us today.....have you all seen this and do you have any caned language that pertains? All I have is the AN document that circulated last week but it does specifically address the items noted below. Let me know.....thanks.

**WEST EXPLOSION ATTRIBUTABLE TO “MULTIPLE REGULATORY LOOPHOLES,” CONFUSION.**

The [National Journal](#) (4/25, Guarino, Subscription Publication, 561K) reports that the US Chemical Safety Board says in its report that the West Fertilizer Co. explosion can be attributed to “multiple regulatory loopholes – some real and some likely imagined.” The article says the facility reported its ammonium nitrate use under OSHA requirements, but Texas officials determined, “incorrectly, according to EPA guidelines,” that it was exempt from emergency planning requirements of the Federal Emergency Planning and Community Right-to-Know Act. The report is quoted as saying, “This disconnect between the federal and state agencies played a significant role in the lack of emergency planning at West Fertilizer, which left emergency responders and residents unprepared for what occurred on April 17.”

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**From:** Natarajan, Nitin [<mailto:Natarajan.Nitin@epa.gov>]

**Sent:** Friday, April 25, 2014 8:35 AM  
**To:** Breor, Scott  
**Subject:** RE: Monday  
I'll make it work

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Nitin Natarajan  
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**From:** Breor, Scott [<mailto:Scott.Breor@hq.dhs.gov>]  
**Sent:** Friday, April 25, 2014 8:29 AM  
**To:** Natarajan, Nitin  
**Subject:** RE: Monday  
Good catch....I didn't even realize that....I will try to get our motor pool van. If I moved the status report meeting up a half hour could you make that.....11:30 to 1:30?

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**From:** Natarajan, Nitin [<mailto:Natarajan.Nitin@epa.gov>]  
**Sent:** Friday, April 25, 2014 8:21 AM  
**To:** Breor, Scott  
**Subject:** Monday  
Scott,

Just realized our meeting at noon is at Courthouse and the trade meeting is at Glebe. Do you guys have transportation over there? Can I ride along? If not, no worries, I'll setup have my motorpool folks do it.  
N

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